

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Leader and Cabinet
AUTHOR/S: Chief Executive/ HR Officer

18 February 2008

SINGLE STATUS UPDATE

Purpose

1. The Staffing & Communications Portfolio Holder has considered a detailed report about Job Evaluation and pay structures and agreed officer recommendations. The purpose of this report is for Cabinet to confirm this decision.
2. This will be a key decision because
 - it is likely to result in the Council incurring expenditure which is significant having regard to the Council's budget for the service or function to which the decision relates.
 - it may increase financial commitments (revenue and / or capital) in future years above existing budgetary approvals.
 - it is potentially of such significance to the Council or the services, which it provides that the decision-taker is of the opinion that it should be treated as a key decision.

Executive Summary

3. Changes in legislation, particularly relating to age and gender mean that the current job evaluation scheme and pay structure is no longer fit for purpose. Cabinet is recommended to support the change to the NJC Job Evaluation Scheme and the changes to the pay structure to allow compliance with legislation.

Background

4. A review of the pay and reward structure was carried out in 2002/ 03 as part of an organisational review by PWC. The Monks 6 factor method was adopted and used to evaluate the posts to enable them to be ranked.
5. PWC delivered the pay and reward review to the specification required. However, since 2003 there have been a number of legislative changes, such as the Age Regulations 2006, which have effected what is required in a job evaluation and pay and grading system. There have also been well publicised equal pay claims with significant sums being paid to claimants where there has been inequality of pay for work of equal value. In 2007 the Employment Appeals Tribunal (EAT) allowed the GMB union's appeal against an employment tribunal's decision in 2006 (*Allen v GMB*,) that it unlawfully discriminated against and victimised its female members with regard to their right to receive equal pay from their employer, Middlesborough Borough Council. The original judgment was highly critical of the GMB and upheld a claim brought by five test claimants that the union was guilty of indirect sex discrimination in pushing the claimants to settle their equal pay claims against Middlesborough Borough Council on terms it had negotiated with the local authority, without telling the claimants how much compensation they were likely to recover if they were to pursue their claims through an employment tribunal. The EAT upheld the union's appeal and concluded that the GMB did not unlawfully discriminate against or

victimise its women members. However, despite the successful appeal, the case has caused unions to seek the maximum amount of back pay for their members and to litigate rather than negotiate.

6. In November 2006 union representatives confirmed that in the light of the Allen case that they would require SCDC to undertake an equal pay audit and equality impact assessment on the Job Evaluation Scheme before considering the Single Status Agreement. All local authorities should have achieved single status by April 2007. Legally the Council is required to carry out equal pay audits to ensure the scheme still meets legislative requirements. Project HR conducted an Equal Pay Audit in Spring/Summer 2007. A copy of the recommendations from the audit is included as **Appendix 1**.

Considerations

7. The audit has shown that in light of changes in legislation that the current job evaluation scheme and pay structure is no longer fit for purpose.
8. In the Green Book the NJC Job Evaluation Scheme is explicitly described as the benchmark by which other schemes should be judged as fit for purpose on equalities. This does not mean authorities are obliged to use it, but the Council does need to show that the current Scheme operates in a way that is equivalent to the NJC Scheme. The NJC Scheme has 13 factors divided into 4 groups. There are 3 factors, which are not covered by the Monks 6 Scheme. These are Physical Demands, Emotional Demands and Working Conditions. For some roles these factors could have an impact on the total score.

Options

9. To do nothing and continue to use the Job Evaluation and Pay Structure without changing it is a high risk strategy. The recommendations in the audit include a number of concerns or suggested changes about the operation of the existing Scheme such as training, union involvement in job evaluation panels and the use of job analysis questionnaires and changes to the pay structure. The analysis has shown that the pay structure is contributing to significant pay differences between men and women and the current 8-point scale for each grade is outside the recommended maximum of 5 points established by the Age Discrimination Regulations. This means the Pay Structure must be reviewed and the number of overlapping grades and incremental points reduced.
10. Potentially the unions could bring claims for failure to reach a Single Status Agreement or if employees, possibly supported by “no win, no fee” solicitors, can find suitable comparators they could submit equal pay questionnaires either before or after making equal pay claims to the Employment Tribunal. The costs in responding to questionnaires and defending equal pay claims would be significant in financial and capacity terms.
11. The second option is to make alterations to the existing Job Evaluation Scheme and the pay structure. Changes could be made to update the existing Scheme and pay structure in line with current legislation, but this would involve considerable expense and may not resolve the issues highlighted. The NJC Job Evaluation Scheme is the preferred scheme by the unions and they would want any changes to be benchmarked against this Scheme. The potential for litigation would still be high.

12. The preferred option is to move to the NJC Job Evaluation Scheme and to change the pay structure. Moving to the NJC Scheme and changing the pay structure would lower the risk of litigation.
13. The Council is working to an enhanced equalities agenda following the Corporate Governance Inspection. The Council is also working in a difficult recruitment market, particularly relating to the growth agenda posts and the risk to reputation from equal pay claims and the possibility of litigation should not be underestimated.
14. The Council does not currently have the resources or expertise internally to do this work. A consultant would be required to support the work. A Job Analyst would be required to undertake job evaluation interviews for approximately 350 specified jobs to establish a new rank order of jobs. Further work would be needed to establish joint JE panels, appeals process/ panels and pay structures. Following the evaluation and introduction of a new pay structure there would be pay protection issues and possible back pay implications. This option will have considerable employee relations impacts as any alterations to the pay structure or Job Evaluation Scheme would result in winners and losers.
15. In financial terms the costs would be high in actually doing the work and is unlikely to be cost neutral. At present it is difficult to estimate what the cost would be. The HR Manager has already made bids for funding of £30,000 in 07/ 08, £82,000 in 08/ 09 and £8,000 in 09/ 10 which provides for the employment costs of a Job Analyst and consultancy support.

Implications

16	Financial	Equal pay claims or other litigation is unquantifiable at this stage
	Legal	See body of the report
	Staffing	See body of the report
	Risk Management	See body of the report
	Equal Opportunities	See body of the report

Consultations

17. The unions at regional level have been consulted. Their view is that it is the responsibility of the Council to have a fair and equitable job evaluation and pay structure but are willing to work in partnership with the Council to bring in the new processes.

Effect on Annual Priorities and Corporate Objectives

18	Affordable Homes	This issue could have substantial financial implications for the Council, which may impact on employees available to deliver these priorities.
	Customer Service	
	Northstowe and other growth areas	
	Quality, Accessible Services	
	Village Life	
	Sustainability	
	Partnership	

Conclusions/ summary

17. The audit has shown that in light of the changes to legislation the current Job Evaluation Scheme and pay structure is no longer fit for purpose. The change to the NJC Scheme will be a painful change, which will be costly but in the medium to long term represents the best way of reducing the risk to the Council of costly litigation, a disaffected workforce and risk to reputation.

Recommendation

18. Cabinet is recommended to support the change to the NJC Job Evaluation Scheme and the changes to the pay structure to allow compliance with legislation.

Background Papers: the following background papers were used in the preparation of this report:

None

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